IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 10394 of 2007(K)

PETITIONER:

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1. C.P.SANTHA, PRABHA(HOUSE),
   BALUSSERY(POST), PIN-673 612,
   KOZHIKODE DISTRICT.

2. K.G.VIJAYAN, PRABHA(HOUSE),
   BALUSSERY(POST), PIN-673 612,
   KOZHIKODE DISTRICT.

3. K.G.REETHA, PRABHA(HOUSE),
   BALUSSERY(POST), PIN-673 612,
   KOZHIKODE DISTRICT.

4. K.G.VISWANATHAN, PRABHA(HOUSE),
   BALUSSERY(POST), PIN-673 612,
   KOZHIKODE DISTRICT.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENTS:

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1. THE EXCISE COMMISSIONER,
   THIRUVANANTHAPURAM.

2. THE ASSISTANT EXCISE COMMISSIONER,
   KOZHIKODE.

3. K.BALAKRISHNAN NAIR, S/O RAMAN NAIR,
   UDAYAM, MENHANIAM AMSOM AND DESOM OF
   KOYILANDY TALUK, KOZHIKODE DISTRICT.

4. SANTHA, W/O K.BALAKRISHNAN NAIR,
   UDAYAM, MENHANIAM AMSOM AND DESOM OF
   KOYILANDY TALUK, KOZHIKODE DISTRICT.

5. N.J.FRANCIS, SOORYA BAR AND HOTELS,
   PAILOTH ROAD, PERAMBRA, KOZHIKODE DISTRICT.

R1, R2 BY GOVT. PLEADER SRI.I.V.PRAMOD

R5 BY ADV. SRI.GEORGE POONTHOTTAM
R3, R4 BY ADV.SRI.K.V.SOHAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.10394 OF 2007

Dated this the 29th day of March, 2007

JUDGMENT

The petitioners and respondents 3 and 4 are parties to A.S.No.546/99 before this Court. That appeal is stated to be one in relation to the partnership between that parties and therefore, any question regarding the assets of those firm or utilisation of the funds of that firm are subjudice in that appeal. The parties will have to seek appropriate remedies from this Court in that appeal.

2. The request of the petitioners in this writ petition is for a direction to the official respondents to hear them also before licence of the 5th respondent is renewed under the Abkari laws. It appears that the 5th respondent is a licensee from 1991 onwards. His right to be a licensee is governed by the Abkari laws, though the right to possess and use the particular premises may be subject to the laws regulating the rights to properties. It may

not be, therefore, prudent to direct the official respondents to hear the petitioners also in the matter of renewal of licence of the 5th respondent.

In the aforesaid circumstance, this writ petition is dismissed without impairing any right of the petitioners to seek any interlocutory orders in the civil appeal.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.